

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JEFFREY GRUNE,

Petitioner,

-v.-

9:05-CV-0691  
(TJM)(GJD)

SUPT. MAZZUCA, Superintendent, Fishkill  
Correctional Facility,

Respondent.

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APPEARANCES:

OF COUNSEL:

JEFFREY GRUNE  
Petitioner, *pro se*

HON. ELIOT SPITZER  
New York State Attorney General  
Attorney for Respondent

LUKE MARTLAND, Esq.  
NISHA MAHESH DESAI, Esq.  
Assistant Attorneys General

THOMAS J. MCAVOY, Senior United States District Judge

**DECISION and ORDER**

Petitioner Jeffrey Grune filed a petition for a writ of habeas corpus with the Court on June 3, 2005.<sup>1</sup> Dkt. No. 1. Thereafter, Petitioner submitted a motion seeking his release on bail pending the outcome of his habeas petition. Dkt. No. 5. By Order of United States Magistrate Judge Gustave J. Di Bianco filed on November 17, 2005, Petitioner's motion for release on bail was denied. Dkt. No. 19 ("November 17, 2005 Order"). On December 8, 2005, Petitioner filed a Notice of Appeal to the Second Circuit Court of Appeals from the November 17, 2005 Order. Dkt. No. 24. Petitioner also filed a request for Certificate of Appealability, which was denied on February 24, 2006. Dkt. No.

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<sup>1</sup> The petition has been denied and dismissed by Order of this Court filed on May 12, 2006. Dkt. No. 44.

36.

Presently before the Court is Petitioner's application to proceed in forma pauperis during the appeal of this matter. Dkt. No. 42.

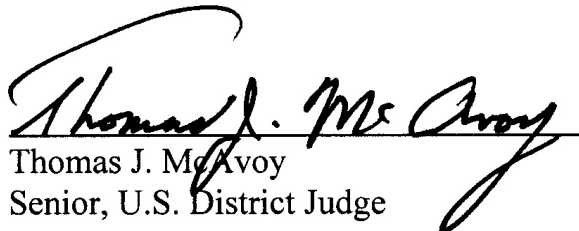
A review of Petitioner's in forma pauperis application reveals that Petitioner has approximately \$1000.00 in his prison account and an additional \$18,000.00 in a savings account in an Albany bank.<sup>2</sup> *Id.* at 2. Since the Court cannot find that Petitioner is indigent based upon the information contained in his in forma pauperis application, the Court denies his application to proceed in forma pauperis on appeal.

**WHEREFORE**, it is hereby

**ORDERED**, that Petitioner's application to proceed with the appeal of this matter in forma pauperis (Dkt. No. 42) is **DENIED**, and it is further

**ORDERED**, that the Clerk serve a copy of this Order on the parties.

June 1, 2006

  
Thomas J. McAvoy  
Senior, U.S. District Judge

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<sup>2</sup> While Petitioner states that he "cannot conduct direct bank transactions from prison," this does not mean that he cannot obtain funds from his account with the help of family or friends. Moreover, he has approximately \$1000.00 in his prison account.